



Nevada Division of Public and Behavioral Health Information Bulletin



Topic: Proposed Revisions to NAC 457 and 459 (File No. R144-13RP4)

Section/Program/Contact: Karen Beckley, Manager, Radiation Control Program

TO: Nevada Radiation Control Program, Licensees, Registrants and Stakeholders

Date: January 29, 2016

Thank you for participating in the Division of Public and Behavior Health, Public Workshop on January 12, 2016 for the proposed regulation revisions to NAC 457 and 459 (File No. R144-13RP4). As a result of comments received during the workshop and other public comment, the Division has developed a proposed change as follows:

Sec. 11.

- 1. If an inspection, evaluation or investigation reveals that a person is in Violation of NAC 459.010 to 459.950, inclusive, and sections 4 to 28, inclusive, of this regulation or any provision of chapter 459 of NRS, the Division may issue a notice of violation.*
- 2. The Division may impose an administrative fine as provided in subsection 4 after sending the notice of violation to the violator by certified mail or personal service. The notice of violation must include a reference to the section of the statute, regulation, order or condition of a license violated, a concise statement of the facts alleged to constitute the violation, a statement of the amount of the administrative fine to be imposed and a statement of the violator's right to a hearing. The violator has 20 days after receipt of the notice within which to deliver to the Division a written request for a hearing. After the hearing, if requested, and upon a finding that a violation has occurred, the Administrator of the Division may issue a final order and assess the amount of the fine. If no hearing is requested, the notice becomes a final order upon the expiration of the 20-day period. Payment of the penalty is due when a final order is issued or when the notice becomes a final order. The authority to levy an administrative fine is in addition to all other provisions for enforcement of NRS 459.010 to 459.290, inclusive, or NAC 459.010 to 459.950, inclusive, and sections 4 to 28, inclusive, of this regulation and the payment of the administrative fine does not affect the availability of any other provision for enforcement in connection with the violation for which the penalty is levied.*
- 3. The Division may, after providing a notice of violation as described in subsection 2, impose an administrative fine:*
 - (a) Except as otherwise provided in paragraphs (b), (c) and (d), of not more than \$2,000 per day for each violation of NAC 459.010 to 459.950, inclusive, and sections 4 to 28, inclusive, of this regulation or any provision of chapter 459 of NRS, or for a violation of any regulation or order, or any term, condition, or limitation of any license issued pursuant to those provisions.*
 - (b) Of not more than \$5,000 per day for each violation of a provision described in paragraph (a) that the Division determines is necessary to protect health and minimize danger to life or property.*
 - (c) In the amount of \$500 for the failure to satisfy the requirement of notifying the Division within the period specified in paragraph (b) of subsection 1 of NAC 459.210.*
 - (d) In an amount equal to the fee required for the proposed activity if the person fails to receive written permission from the Division, as required pursuant to paragraph (b) of subsection 1 of NAC 459.210, to proceed with the proposed activity before engaging in the proposed activity.*
- 4. Except in cases of willfulness or those in which the public health, interest or safety requires otherwise, no administrative penalty will be imposed unless, prior to the institution of proceedings thereof:*
 - (a) Facts or conduct which may warrant such action have been called to the attention of the licensee in writing; and*
 - (b) The licensee has been accorded an opportunity to demonstrate or achieve compliance with all lawful requirements.*
 - (c) The licensee fails to achieve compliance within thirty days or a time prescribed by the Division as required by public health, interest or safety.*


5. The Division may recover actual damages which result from a violation, in addition to the administrative fine provided in this section. The damages may include, without limitation, expenses incurred by the Division in removing, correcting or terminating any adverse effects which resulted from the violation and compensation for any damages incurred as a result of the violation.

6. The Division may reduce the administrative fine if there is evidence that the person has initiated, in good faith, comprehensive corrective measures or training relating to radiation safety and preparedness, over and above that required as a response to the violation, valued at least 1.5 times the amount of the administrative fine imposed.

Please provide any comments you have to:

RadiationControlProgram@health.nv.gov or

Radiation Control Program
675 Fairview Drive, Suite 218
Carson City, Nevada 89701

 January 29, 2016

SIGNATURE DATE
Karen K. Beckley, MPA, MS
Manager, Radiation Control Program